



July 18, 2013

Honorable Shoshana Grove
Secretary
Postal Regulatory Commission
901 New York Avenue, NW, Suite 200
Washington, DC 20268-0001

Dear Ms. Grove:

Pursuant to 39 U.S.C. § 407(d)(2), the U.S. Postal Service (Postal Service) is providing a copy of a modification to the VN Post Express Joint Stock Company—United States Postal Service Strategic Bilateral Agreement for international products and services. Due to an oversight, this modification to the original bilateral was not filed on or before the effective date; however, the underlying bilateral agreement is on file with the Commission.¹ The Postal Service has marked the non-public version of the document as "Confidential" and "Non-Public" because the document contains information considered confidential and commercially sensitive by the affected postal operator and the Postal Service.

The Postal Service considers certain portions of the document to be protected by 39 U.S.C. § 410(c)(2) and thereby not subject to mandatory disclosure under the Freedom of Information Act (FOIA). Further, the document contains the commercial information of the affected postal operator, and as such, certain portions of the instrument are subject to protection under Exemption 4 of the FOIA. Consequently, we have attached an application for non-public treatment of the document under 39 C.F.R. § 3007.21. In addition, we respectfully request that the Postal Regulatory Commission coordinate with us in the event that the document becomes subject to a FOIA request, so that we can engage in appropriate consultations with the affected postal operator.

Please feel free to contact me if further information would be helpful.

Sincerely,

A handwritten signature in blue ink that reads "Anthony Alverno".

Anthony Alverno
Chief Counsel
Global Business

Enclosure

¹ Letter from Anthony Alverno, Chief Counsel, U.S. Postal Service, to Shoshana Grove, Secretary, Postal Regulatory Commission (February 22, 2011).

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of the enclosed modification to the VN Post Express Joint Stock Company—United States Postal Service Strategic Bilateral Agreement (Agreement), which is a commercial, operational agreement with an agency of a foreign government. The Postal Service is transmitting the Agreement to the Postal Regulatory Commission (Commission) in accordance with 39 U.S.C. § 407(d). The unredacted Agreement is being filed under seal, while a redacted copy is included as an enclosure to the instant transmittal. The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment

competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).¹ Because the portions of materials filed non-publicly fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and e-mail address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

In the case of agreements such as the one transmitted here, the Postal Service believes that the postal operator that has signed the document is the only third party with a proprietary interest in the materials. Due to language differences, cultural sensitivities, and the intricacies of the Postal Service's relationship with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operator.² The Postal Service identifies as an appropriate contact person Shea Felix, Director of Global Business Solutions. Mr. Felix's phone number is (202) 268-6122, and his email address is shea.r.felix@usps.gov. The Postal Service has already informed the

¹ The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

² The Postal Service acknowledges that 39 C.F.R. § 3007.21(c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's response might be construed as beyond the scope of this exception, the Postal Service respectfully requests a waiver that would allow it to designate a Postal Service employee as the contact person under these circumstances, in light of the practical considerations outlined herein.

postal operator, in compliance with 39 C.F.R. § 3007.20(b), about the nature and scope of this filing and about the postal operator's ability to address any confidentiality concerns directly with the Commission.

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

As required by 39 U.S.C. § 407(d), the Postal Service is transmitting a modification of a contract with a foreign postal operator that is an agency of a foreign government. The modification clarifies the designation of items subject to an Agreement that defines the terms on which the Postal Service and the relevant operator exchange Air Parcel Post items, including rate information for Air Parcel Post items tendered by the Postal Service to VN Post Express for delivery in Vietnam. The Postal Service maintains that the redacted portions of the document should remain confidential.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the information that the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices.

Competitors could use the information to assess costs to the Postal Service or the foreign postal operator of providing international Parcel Post service.

Additionally, foreign postal operators or other potential customers could use the information to their advantage in negotiating the terms of their own agreements

with the Postal Service or the foreign postal operator. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Public disclosure of price information in the enclosed modification to a contract would provide foreign postal operators or other potential customers extraordinary negotiating power to extract more advantageous rates from the Postal Service and the foreign postal operator that is a party to the instant contract.

Hypothetical: A foreign postal operator's negotiated Parcel Post pricing information is disclosed publicly on the Commission's website. Another postal operator sees the information and uses the publicly available rate information to the Postal Service's or foreign postal operator's detriment in pricing negotiations, in an effort to extract the payment of comparable rates for delivery of Parcel Post items.

Harm: Public disclosure of information in the modification to the contract would be used by the Postal Service's competitors, as well as competitors of the foreign postal operator with which Parcel Post items are exchanged.

Hypothetical: A competing international delivery service obtains a copy of the unredacted version of the modification of the contract from the Postal Regulatory Commission's website. The competitor analyzes the modification to assess the foreign postal operator's prices and/or the Postal Service's underlying foreign delivery costs. The competitor uses that information as a baseline to develop lower-cost alternatives.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including private sector integrators and other foreign postal operators), as well as their consultants and attorneys, except for the foreign postal operator that is a party to the agreement and that therefore already has access to this information. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for parcel and expedited products or similar products should not be provided access to the non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.

**MODIFICATION TO VN POST EXPRESS JOINT STOCK COMPANY –
UNITED STATES POSTAL SERVICE STRATEGIC BILATERAL AGREEMENT**

This Modification amends the Letter Post Bilateral Agreement ("Agreement") between the United States Postal Service ("USPS"), an independent establishment of the Executive Branch of the United States Government, with offices at 475 L'Enfant Plaza SW, Washington, DC 20260-9998, and VN Post Express Joint Stock Company ("VN Post Express"), a Vietnamese corporation established by the Vietnam Post and Telecommunication with offices at No 1 Tan Xuan, Xuan Dinh, Tu Liem, Hanoi, Vietnam. This Agreement was signed by VN Post Express on February 2, 2011, and signed by the USPS on February 22, 2011. The USPS and VN Post Express may be referred to individually as a "Party" and together as the "Parties."

The purpose of this Modification is to clarify the designation of the items subject to the Agreement in Articles 1 and 3 and Article 4, paragraph 1. Those provisions shall now read as follows:

Article 1: Purpose of the Agreement

The purpose of this Agreement is to set out the rates that will apply to USPS Priority Mail International items tendered to VN Post Express by the USPS for delivery in Vietnam.

...

Article 3: Service and Rates

1. As used in this agreement, "USPS Priority Mail International" means any piece corresponding to size limits as set forth in the Universal Postal Union Parcel Post Regulations Article RC 115, having a weight of less than or equal to 31.5 kilograms, and transported to Vietnam on air transportation. As used in this agreement, "USPS Priority Mail International" does not include the USPS's Priority Mail International Flat-Rate Envelope or Small Flat-Rate Box items.
2. As of the Effective Date, the USPS will pay VN Post Express a rate of [REDACTED] SDR per item and [REDACTED] SDR per kilogram for USPS Priority Mail International items tendered by the USPS to VN Post Express for delivery in Vietnam. This rate is subject to change on an annual basis, and VN Post Express will give the USPS at least 60 days advance notice before any change in rate.
3. The Parties also acknowledge that the procedures in connection with USPS Priority Mail International items, including procedures for the exchange, handling, forwarding, customs control, transmission, routing, receipt, account settlement, and liability for such items, are set forth in the Universal Postal Union's Parcel Post Manual. In the event of any conflict with the provisions of this Agreement, this Agreement shall prevail.
4. The Parties acknowledge that VN Post Express may treat the USPS Priority Mail International items as "EMS Economy" within its domestic network. USPS Priority Mail International items are not subject to the terms and conditions of any multilateral or bilateral agreement concerning Express Mail Service (EMS) items, including terms and conditions concerning postal operators' exchange, handling, forwarding, customs control, transmission, routing, receipt, account settlement, and liability in connection with such items.

Article 4: Monetary Transactions

1. On a quarterly basis, the Parties will conduct billing, account settlement, and payment for USPS Priority Mail International items subject to this Agreement.



All other terms and conditions of the Agreement shall remain in force.

VN Post Express acknowledges that this Modification and supporting documentation will be filed with the Postal Regulatory Commission and the U.S. Department of State. Article 10, paragraph 2, of the Agreement applies to the filing of this Modification.

The Parties may execute this Modification in one or more counterparts (including by facsimile or by electronic means such as .pdf format). Not all Parties need be signatories to the same document. All counterpart signed documents shall be deemed an original and one instrument.

IN WITNESS WHEREOF, the Parties agree to be bound as of the latest date of signature to the terms and conditions of this Agreement.



[Signature]
BĐang H. Bich Hoa
CEO & General Director

United States Postal Service

[Signature]
Pranab Shah
Managing Director, Global Business,
and Vice President

25 May 2011
Date

MAY 11, 2011
Date

